

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 SAJ-01 IO-11 ACDA-05 CIAE-00 DODE-00

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FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO SECSTATE WAADC 2049

AMEMBASSY BERLIN UNN

USEC BRUSSELS 1091

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO

AMEMBASSY PARIS

C O N F I D E N T I A L USBERLIN 0401

E.O.11652: GDS

TAGS: PGOV, PFOR, EEC, WB, GW

SUBJECT: BERLIN AND DIRECT ELECTIONS TO
EUROPEAN PARLIAMENT

REF: BONN 3348

1. BRITISH LEGAL ADVISER MENTIONED TO US LAST WEEK
HIS AUTHORITIES INTEREST IN SEEING FRG
STATEMENT ON BERLIN CONVERTED INTO " PROTOCOL" AND
GAVE AS REASONS AVOIDANCE OF TYPE OF LITIGATION
DESCRIBED PARA 5 REFTEL. WE EXPRESSED SOME DOUBT
ABOUT PRACTICALITY OF THIS CONCERN AND PROPRIETY
OF FORMAL PROTOCOL SINCE IT WOULD SEEM TO MARK
DEPARTURE FROM TREATMENT OF BERLIN IN EARLIER EC
TREATIES AND MIGHT BE CONSTRUED AS INDICATING UNDUE
ALLIED NERVOUSNESS ABOUT CITY'S RELATIONS TO EC.
BRITISH LEGAL ADVISER THEN EXPLAINED THAT BRITISH
ARE LESS INTERESTED IN HAVING DOCUMENT EXPRESS
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EXPLICIT FORMAL AGREEMENT OF NINE EC STATES THAN

IN HAVING FRG DECLARATION INCONTESTABLY INTEGRAL PART OF CONVENTION, HE SAID THAT BRITISH ENVISAGED THIS BEING DONE IN SUCH MANNER AS FRG DECLARATION IWHT RESPECT TO TREATY OF ROME.

2. THERE MAY, THEREFORE, BE SOMETHING OF A TERMINOLOGICAL FOG OBSCURING BASIC AGREEMENT. WE UNDERSTAND THA EC TREATIES , INCLUDING TREATY OF ROME, NORMALLY HAVE TWO TYPES OF EXTRA DOCUMENTS THAT ARE NONETHELESS INTEGRAL PARTS OF TOTAL FINAL PACKAGE. THESE ARE " PROTOCOALS" , WHICH NORMALLY BEGIN BY STATING THAT THE VARIUS GOVERNMENTS OF THE EC HAVE AGREED ON SOMETHING, AND " DECLARATIONS" IN FINAL ACT, WHICH CAN BE UNILATERAL STATEMENTS OF ONE PARTY BUT WHICH, BY THEIR INCLUSION IN FINAL ACT, AR IMPLICITLY ACCEPTED BY OTHER PARTIES. FINAL ACT OF TREATY OF ROME, FOR EXAMPLE, INCLUDES STATEMENT THAT " THE CONFERENCE FURTHER TOOK NOTE OF THE DECLARATONS LISTED BELOW AND ANNEXED TO THIS ACT:...2. A DECLARATION OF THEGOVERNMENT OF THE FRG ON THE APPLICATION OF THE TREATIES TO BERLIN." WER FRG DECLARATION SO TREATED IN CONVENTION ON PARLIAMENTARY ELECTIONS AND LINKED WITH ALLIED BK/O CONTAINING RESERVATIONS ON DIRECT ELECTON, WE WOULD THINK UK'S RATHER THEORETICAL CONCERN'S ON THIS POINT WOULD BE SATISFACTORILY MET.GEORGE

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